IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL WRIT PETITION NO.654 OF 2007
WITH
CRIMINAL WRIT PETITION NO.655 OF 2007

Showman International ...Petitioner.
V/s.
The State of Maharashtra & Anr. ...Respondents.

Shri Rohit Pawaskar with Prasad Das i/b M/s. Goenka Law Associates for the Petitioner.

Shri Y.S.Shinde APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 21st April, 2007.

P.C.:

1. Heard the learned counsel for the Parties. Perused the documents annexed with the writ petitions.

2. Both these writ petitions arise out of two complaints filed by the respondent no.2 M/s.Kamod Films against the present petitioner. The complaints were filed alleging that the respondent no.2/complainant had entered into an agreement with the present petitioner for obtaining rights for Bombay Circuit for film Yahoo. However, later on it was agreed to revise the terms of the agreement and in view of the same, the present petitioner had agreed to repay an amount of Rs.22.5 lakh to the respondent no.2. As per the said agreement, the petitioner had issued post-dated cheques. One of them

was dated 28th February, 2004 for amount of Rs.5,00,000/- and another was dated 14th April, 2004. For amount of Rs.2,50,000/-, the first cheque was presented for encashment but was returned on 3rd March, 2004 with remarks "Stop payment by Drawer". The second cheque was returned as dishonoured with remarks "Insufficient Funds". In spite of statutory notice, the petitioner failed to make the payment therefore, the respondent no.2 filed two separate complaints about the said two cheques. In both the matters, process was issued by the Magistrate on 9-6-2004. After service of process, the petitioner appeared and even plea of the accused was recorded. Both the matters appear to be at the stage of recording evidence. In both of these writ petitions, petitioner seeks to quash the issuance of process by the Magistrate on the ground that sufficient material pointing out all the transactions and the agreements are not disclosed in the complaints. It is also contended that the petitioner had made certain payments, which are not disclosed in the complaints.

3. It appears that after issuance of process, the petitioner appeared before the Magistrate and his plea was recorded. Efficacious remedy of revision under Section 397 of the Cr.P.C. was available but that remedy is not availed by the petitioner. He kept silent

for a period of about 2 and half years or so and when both the criminal cases are at the stage of recording evidence, he has rushed to this Court by filing the writ petitions. I have also gone through the complaints. I find that the complaints disclose sufficient material to proceed with the matter. The contentions raised by the petitioner are in the form of defence, which can be taken into consideration at the time of trial. In view of this factual position as well as delays on the part of the petitioner, I find that it is not a fit case to invoke extraordinary writ jurisdiction.

4. Both the writ petitions stand dismissed summarily.

5. The observations made in this order shall not affect the merits of the case in any manner before the trial Court.

(J.H.Bhatia,J.)